IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Crl.MC.No. 2360 of 2007()

CRIME NO. 44/07 OF PATHANAPURAM POLICE STATION

PETITIONER/COMPLAINANT:

K.MATHAI,KOCHUKIZHAKKETHIL,
PIDAVOOR POST,PATHANAPURAM.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS/ACCUSED/STATE:

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1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
PATHANAPURAM POLICE STATION,
PATHANAPURAM.

3. KANNAN,N.P.SADANAM,SATHANMUKKU,
PIDAVOOR VILLAGE,PATHANAPURAM,
KOLLAM DISTRICT.

4. MANOJ, -DO-

5. SOORAJ,SOORAJ BHAVAN,
SATHANMUKKU,PIDAVOOR VILLAGE,
PATHANAPURAM,KOLLAM DISTRICT.

R1 & 2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2360 of 2007

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Dated this the 24th day of July, 2007

O R D E R

The petitioner is the defacto complainant in a crime registered at his instance, inter alia, under Sections 452, 324 and 354 I.P.C. The crux of the allegations is that the accused persons were involved in two incidents against the petitioner, the first one in the car and later in the house of the petitioner. The crime was registered. Investigation is in progress. The Investigating Officer, according to the petitioner, improperly and unfairly deleted Section 452 and included Section 451 I.P.C. Consequently the accused persons appeared before the learned Magistrate and claimed bail. They were granted bail also. The petitioner has now come to this Court with a twin prayer. First of all it is prayed that the bail granted may be cancelled. Secondly it is prayed that the Investigating Officer may be directed to include Section 452 also.

2. Having heard the learned counsel for the petitioner, I am afraid the request cannot be accepted. Cancellation of bail is a harsh remedy, which is available under law and which can be resorted to only if very compelling reasons are there. Even assuming that the

substitution of Section 452 with 451 is not justified, I am of the opinion that it will be improper for this court at this stage to finally and authentically pronounce on that dispute. There is no allegation that the liberty granted to the accused persons has been abused or misused by them. In these circumstance the first prayer to cancel the bail cannot be accepted.

3. The second prayer is to direct the Investigating Officer to include the allegation under Section 452 I.P.C. In the course of investigation the function and jurisdiction of the court is limited. Specific direction as to the manner in which the investigation is to be conducted should not normally be given by a court. In the facts and circumstances of the case, I find no reason to issue any such direction to the Investigator invoking the powers under Section 482 Cr.P.C. Needless to say the investigator must anxiously consider whether there is material to allege the offence punishable under Section 452 I.P.C.

4. It follows that this Crl.M.C. cannot be allowed. The same is dismissed.

(R. BASANT)
Judge

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